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# Iraq

## Country Report

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## **I. Background**

### **I.1. Historical and political background**

Iraq has been under international sanctions for a decade now. During these ten years the situation in the country has changed to such a large degree that one definitely has to differentiate between the pre-sanctions and post-sanctions periods.

As far as detailed information on the devastating effects of the sanctions is concerned, the reports of the UNICEF, the FAO, the ICRC and of all the organizations that continue to have presence in Iraq draw a very accurate picture. All of these talk in detail about the deterioration of the humanitarian situation in Iraq. What there is consensus on at the moment is the fact that the sanctions have not really worked in the sense that they have mainly hurt the population, but not the regime itself. The humanitarian effort through the Oil for Food Programme is really not sufficient to meet the most basic civilian needs. What is needed at this moment in time is infrastructural investment because the whole system is collapsing. The effect of the sanctions has also been reflected in the human rights situation. Iraq has rejected the latest, most important Resolution 1284, which has been passed in December 1999, and still refuses to admit the weapon inspectors. The result is a present standoff.

However, there are different views as to if the sanctions are in fact crumbling or not. The USA and the UK are – officially at least - of the opinion that they are intact. What can be observed is an erosion not only of the sanctions, but of the international consensus on them. Basically reaffirming the requirement of weapon inspections, Resolution 1284 could only be passed after Russia, France and China abstained from voting against it. It has become increasingly difficult to maintain the semblance of consensus on this issue. At the same time, since the opening of Saddam International International Airport in July 2000 a number of so-called humanitarian flights were carried out. These humanitarian flights did not only come in from neighbouring countries, but also partly from Russia and France. It is known that they also carried business delegations and others to arrange for future business with Iraq. Apart from that, a number of Gulf states have re-established diplomatic relations with Iraq. The relationship with Jordan, which has always been good, has further improved considerably. At the beginning of November the Iraqi Vice President Taha Yassin Ramadan visited Syria with which the relations have equally improved after years of troubles following the breach in 1980. The Iranian Foreign Minister visited Baghdad recently in an effort to bring about a similar improvement in the Iraq-Iran relations. Many Iraqi refugees of course go to these neighbouring countries, so that any shift in policy towards Iraq is always likely to have an effect on the refugees living in those countries. On the whole, all these factors do point to a definite crumbling of the sanctions in terms of their actual application. Even those states in the Security Council which continue to support the sanctions now acknowledge that they have missed their target. Yet, at the same time it is politically difficult to admit that and give way to Iraq.

As regards the internal situation in Iraq, it is actually not very complicated, given that it is a one-party dictatorship of the ruling Baath Party exerting all-encompassing control and leaving no option for the individual: one is either part of the system or not. A person does not have many choices in this respect. One has to have membership of the Baath Party in order to be not only able to enter certain professions, but to be safe

in the first place. Not being a member immediately puts a question mark next to one's name. All political parties are banned except those few token parties taking part in the parliamentary elections. A lot of parties have been founded recently or came into existence as factions of existing parties or factions having split from other factions.

The Baath Party came to power through the support of the Arab people who promoted it not only in Iraq, but also in Syria and other countries. Yet, it has lost in popularity in society due to the events of the recent years - the Iran War, the Kuwait War, the corruption. To stay in power they are using a method wide-spread in the Third World: suppression. As a result they have no understanding for criticism. Positive and negative criticism are not welcome. Saying: „We have a proper policy towards the West, but we suffer“, might be a crime. A democratic understanding of developing the system or the instruments of the system is not a subject for discussion. The orders are coming from the top and are expected to be implemented even at home. Independently of ethnic or religious origin, everybody is in principle 'invited' to join the Baath Party: Muslims, Christian, Arabs, Turkmen. One may refuse one way or the other, but they will insist and come again and again. The head of the family will be asked to give an explanation for the refusal. They will try to limit the facilities of the family. They may dismiss family members from their jobs. As has happened in Kirkuk and surroundings, they may confiscate the house and land of the individual and force him to move to Northern Iraq. In some cases the Baath party official in charge in the district may have the person kept in detention and beaten. This system aims at having everybody under control. Baath Party members are supposed to write reports and submit them to their respective supervisors.

For some professions party membership is an essential prerequisite. In order to be a teacher, an engineer etc. one simply has to belong to the party. Students are encouraged to become a member of the youth branch of the Baath Party, so that the pressure starts from quite an early age. Nevertheless, not every single citizen is a Baath Party member. Some people can get away with it. However, the higher one's position, the more visible one is and the more difficult it is not to be a member.

The military, the security forces, police officers, the Special Security Apparatus, Saddam's Fedayeen and students of Mosul University are 100 % party members. They have no other option. In the majority of the faculties of the Baghdad University one is also expected to belong to the Baath Party, otherwise one is not accepted. The Saddam's Fedayeen are turning into another network similar to the Baath Party. At school teachers select students for the Saddam's Scouts where they receive basic training. While the Popular Army, Al Jaysh ash-Shaabi, has been abolished (except for emergency cases) Saddam's Fedayeen will be an institution serving the leader himself.

The de facto division of the country brings of course new elements into Iraqi politics. While in the past they were called separatist or terrorist political groups, the Iraqi government has over the past years established contacts with both the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK) and, secretly or overtly, even with some of the minor groups. After the uprising in Northern Iraq in February 1991 the Kurdish Front splitted into the KDP and the PUK which now control different parts of the north: Dohuk and Arbil are managed by the KDP while Sulaymaniyah is governed by the PUK. In both areas there is a government and a judiciary system which is acting in a way like the Iraqi authorities or any other state agents could act. The Swiss Refugee Appeal Board decided on a quasi-state approach and began to consider these groups as agents of prosecution.<sup>1</sup> Since they have been

<sup>1</sup> Explanation by Rahel Bösch, Swiss Refugee Council:

„The first instance of decision-making is the Bundesamt für Flüchtlinge (Federal Office for Refugees). On this level it was decided that Northern Iraq is an IFA for those persecuted by the government in Central

ruling, they have been claiming the right to arrest, prosecute and punish individuals for the acts committed in their regions. Compared to PUK and KDP, the Islamic Movement - controlling Halabjah region, but also finding some support in Sulaymaniyah and Arbil - is acting more arbitrarily than the other administrations. All in all, there are four main groups in Iraq which could be agents of prosecution: Iraqi government and all its many instruments, with at least six different security systems: the Intelligence Department, the Security Department, the Special Security Apparatus, the Baath Party in charge of the district, the Police Department and now also a security branch being established by the Saddam's Fedayeen for themselves); the PUK; the KDP; and the Islamic Movement.

The last checkpoint of the Iraqi government is at Fayda which is the main entry into Northern Iraq and hence also the main trade way. The security control there is quite tough. Another entry is located at Kuysanjaq leading into Arbil. Another checkpoint can be found between Kirkuk and Sulaymaniyah, still another one at Chamchamal. This one was not so much in use until 1999 when the relations between PUK and the government developed. At checks one of course has to fulfil certain criteria for going to Northern Iraq. Either one goes there for family visits or one goes back home after having been to the government-controlled areas for a particular reason. In all other cases one should give an explanation (e.g. commercial/trade activities) and have a permit from the military authority to get through the customs. It is not necessarily the case that the terrain beside these checkpoints is heavily mined. There are some routes that smugglers use which are obviously not mined whereas there are some parts of Northern Iraq which are definitely mined.

While at the described places there are regular, routine checkpoints day and night, the Security Department or the military may set up checkpoints at any time and place in the government-controlled areas, even in Baghdad, depending on the security situation. There is regular human traffic between the two sides. Kurds go and see relatives in Baghdad and people from Baghdad visit their families in Arbil, even though it is not a very pleasant trip. People will also travel to Baghdad for medical checks. Civilian movement from Northern Iraq to government-controlled areas and vice versa is possible. Arabs also went to Arbil to see if they could get their property back after 1991. However, those who are wanted or are politically active in the northern parties are not recommended to make this trip, unless it is arranged with the Iraqi government itself. Between the PUK and KDP areas there is one checkpoint at Kuysanjaq which is used for routine transit. Individuals who describe where they are going and why and who are not suspected of belonging to the militia are usually allowed to enter the respective region. The members of the WCPI were allegedly crossing the border three or four times when they had problems in Sulaymaniyah in July/August 2000. Other than that, there are of course some checkpoints and watchpoints further north. They are, however, not used for routine human traffic, but only by shepherds coming from trusted tribes or villages.

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Iraq, but also for the Kurds from the north. On this issue the Swiss Refugee Council carried out an analysis which was published at the beginning of 2000. I know from sources inside the authorities that the positions on the question of IFA in Northern Iraq differed considerably. In August a decision was taken at the second instance, the Asylrekurskommission, adopting the same attitude like the Swiss Refugee Council: both parts of Northern Iraq are quasi-state areas. This view implies that on the one hand they are able to prosecute people who can thus theoretically claim for asylum in Switzerland under the Geneva Convention. On the other hand, the parties are not able to protect, i.e. that people from the PUK area cannot be protected in the KDP region and vice versa. This decision by the Swiss authorities was revolutionary. Another very important decision was that people coming from Central Iraq cannot be sent back to Northern Iraq because there is no economic basis and possibility for them to establish a new existence. Due to these judicial developments we have a very clear situation on these matters. Yet, I have been informed that there are now difficulties inside the authorities as the first instance has to accept the decision. The latest news are that the first instance is preparing an assessment, so there is a dispute going on."

The military activities of the KDP and the PUK mainly occurred at the border between the two parties' regions. Since 1997 there have not been any reports about fighting going on between the two parties in Northern Iraq. They do not attack each other due to a gentlemen's agreement. They have officially declared to co-ordinate several services like education, health care, trade. Individuals do enjoy freedom of movement unless they belong with the militia of a hostile party or perform militia or espionage activities. The military actions against the government stopped in 1996 when the Iraqi National Congress ceased to exist. Beforehand the INC had been attacking government positions in the region south of Arbil some of which they even managed to gain in 1995. With the end of the INC in 1996, however, all the militia left Iraq, so that attacks on the government forces have not occurred since then.

A lot of things have changed in Iraq since the uprising. Lessons were learnt by the ruling family and the establishment as to the situation in the country. One of the major changes was the reorganization of the intelligence and security apparatus as well as of sections of the military. This reform was obviously necessitated by the fact that - with the exception of one or two provinces - most of the areas at one point or the other fell under the control of opposition forces at the time of the uprising. Therefore a major reorganization needed to be done in order to reassert control and to ensure that such events would not happen again. As a result, the structures of the intelligence and security forces are much more centralised now. Saddam Hussein's younger son Qusay has been placed at the head and bears the over-all responsibility for many decisions regarding security operations now. Furthermore, there is a greater degree of control over other aspects of the Iraqi society. Saddam's older son Uday took control of vast sections of the media, which was not part of a wider strategy of Saddam himself, but a role that Uday carved out for himself. Who controls information in the country, wields great power. Within two years after the uprising (by 1993) Uday had taken over part of the work that used to be done by the Ministry of Culture and Information. Besides, he set up his own parallel system of media: a newspaper, a radio station, a TV station. There is also a high degree of interference on his part into the daily work of the Ministry of Culture and Information which has in itself led to friction and human rights violations.

Censorship plays a key role in Iraq. It is sometimes very difficult for an individual to know when or whether they are breaking the law because everything is subject to censorship and repression, even the laws. There are three versions of the Official Gazette, each with varying levels of secrecy and hence with a different circulation. The existence of these three versions is obviously an indication of the nature of the regime and its human rights record. If even the laws of a country are subject to censorship, what does this tell us about the country itself? In general, the secret Gazette contains orders to very senior officials within the party hierarchy or the ruling family who are responsible for military and security operations. These orders would concern the reshuffle in some of the structures of the armed or security forces; plans to carry out security operations in one or the other area and the reasons for doing so; highly sensitive appointments, like during the reorganization of the security apparatus after the uprising; the way how security forces are made responsible for different regions of the country; or orders to shoot and kill people during operations, e.g. evacuations. What one would find in the normal Gazette are amnesty decrees, amendments to the penal code or other legislation - information which would be available to the Iraqi public whereas from outside the country it is difficult to get.

At the same time Iraq is a state which in fact records everything it does in terms of human rights violations. The secret orders would appear in some of the secret Gazettes. Yet, if one does not know that there is an order requiring security forces to carry out an operation in a certain district and that the sanctions for defying government

instructions will be being shot, the dangers of such a system are evident. The fact that testimonies of individuals who have had access to these Gazettes constitute the only source of information is itself a reflection of the gravity of violations of the principles of legality and publicity and the high degree of volatility involved in persecution of suspected opponents of the regime.

## **I.2. Socio-economic background**

The sanctions did not hit the government, but tremendously affected the whole population. What is more, they broke down the system so harshly that no one can repair it. At the moment corruption is widespread, even reaching the presidential family. In order to re-install the system as a good-working, very restrictive structure again, one either has to commit human rights abuses, which would not be tolerated by the international community, or to democratize the system. Therefore Iraq as it used to be belongs to the past and will never be seen again.

People's living conditions have deteriorated to a great extent due to the sanctions. The regime benefited from them through the accumulation of wealth. However, while the system has not changed in structure so much, it has eroded. Given the impoverished situation of the average Iraqi, it has now become possible to buy one's way into many things. The corruption is a reflection of the economic state of the country. All of these officials also have to live and support their families. So they accept payments for removing somebody's name from a computer list or changing the profession in a person's passport as this information defines whether the individual can leave the country or not. Doctors, engineers, some lecturers or military personnel of a certain rank are e.g. not allowed to exit Iraq. So their profession will be changed to „free tradesman“ or „retired“. Against payment it is also possible to obtain documents which might support an individual's claim for asylum, like a copy of a death sentence issued against someone who has been executed. On the other hand, many similar forgeries exist as well.

The security officer or Baath Party member in a given district, who is in need of money, can falsely or truly accuse people of anything in order to force them to bribe him. This may become a routine practice. This arbitrariness of the administration brings about the consequence of people no longer feeling that they belong to the regime or the country.

The corruption reaches an extent where even some close relatives of Saddam Hussein are involved. If one has access to them and can come up with enough money, one can achieve virtually anything. Stories about buying oneself out of detention and out of the country by giving money for a passport are hence indeed reliable. If people are not caught while committing a crime, the accusation depends on reports. The Security Department has the authority to say that the reports contained wrong information. Bribing security officers in order to be released has always been easy and possible in the whole country including Northern Iraq.

On 14 February 2000 it was reported that the Revolutionary Command Council issued the order number 13 stating that against a payment of 2 million Dinar for each year of the remaining sentence a prisoner can buy his freedom under certain conditions. This announcement applied to prisoners who had been convicted of ordinary crimes - not of political offences - and had served more than half or two thirds of their sentence and stated that they could exchange the remaining sentence for payments of money. The reasons were partly to have another source of revenue, partly to get rid of prisoners in order to make space for others. However, this plan was not implemented reportedly due to ministerial disputes about where this money should be allocated.

### **I.3. Society**

#### **Ethnic groups**

The majority of the Iraqi population are Arabs most of whom are Shias while less than 30% belong to the Sunni community. Representing a challenge, the Shias have always been suppressed by the ruling Sunnis. The Caliph of the Islamic Empire was Sunni as were the Turks who came to the region. The Ottomans were also Sunni, and the English preferred the Sunni governor. The Shia majority, living mainly in the south (including Karbala and some parts of Anbar), have been kept from the most influential positions in Iraqi society and politics. This led to the formation and expression of opposition. While a Sunni from Mosul who is not in the Baath Party would not necessarily be expected to be against the regime the contrary is true with regard to Shias. Being Shia means that you are either with the government or in conflict with the government.

It is not different for some other minorities. The Turkmen have always been accused of being „the leftovers of the Ottomans and the Turkish agents in the country“. The areas where they used to live - between Kirkuk and Iran as well as around Arbil and in the Telafer region - were very risky terrain. Kirkuk has more or less been evacuated of the Turkmen. The situation of the Assyrians has depended on the general political situation in Iraq. As a relatively small minority they were obliged to have good relations with the ruling Arab Sunni groups. Historically, they had no other way of expressing themselves politically than aligning with the Baath Party and the Iraqi Communist Party, which were known to be legitimate parties. During the uprising in the north, though, they would side with the Kurds, too. Throughout the 20th century, the Kurds attempted to achieve independence. The first uprising took place even before the establishment of Iraq when the Kurds revolted against the English in 1912. However, Kurdish leader Sheikh Mohammed Barzanjee was not successful in establishing an independent Kurdistan.

#### **Tribal structures**

Iraq's society is very feudalistic, with everyone identifying him/herself with one tribe. Saddam Hussein's family is from Tikrit. Anyone who is Tikriti is easily understood to be affiliated with the regime and the state. Anyone who has a problem with a Tikriti would not receive proper protection from the state as he would in any other country. Individuals in disagreement with a Tikriti in Iraq certainly face severe retributions, and even death. Alternatively, if one is having a problem with the Barzani family in Northern Iraq or the Halabchei family heading the Islamic Movement, one will be persecuted, regardless of one's identity or political perspective.

In a passport one will usually find three names: the name of the person, the name of their father, the name of the grandfather. However, the actual surname, which is the indication of the tribe or region one belongs to, is not written in the passport. The Iraqi government came up with this deliberate policy in order to not identify the area or tribe a person comes from for security reasons. This practice is partly a protection for the individual. If somebody is e.g. called a Tikriti, it is easy to know that they are part of the ruling family which may expose them to particular security risks.

Emphasizing the tribal structures as a ruling aspect is quite important as the Iraqi security system is under the umbrella of the National Security Council. The Council is headed by the President and convenes in the presidential palace. When Saddam Hussein is not there, his son-in-law Ali Hassan Majid takes over this function. Lately the ruling family leaders, i.e. Saddam Hussein and his brothers and half-brothers, met

and decided that his son Qusay should replace him in all meetings or ceremonies where he is not present due to illness or other reasons. This provision is another indication that the tribal life is now firmly incorporated in the daily decision-making process in Iraq. The same applies to the KDP where it has already been decided who is going to replace Massud Barzani, should anything happen to him. They are working on this individual to promote him like a prince.

The tribal society brings along some other consequences: individuals are protected, yet at the same time limited by the tribe. This fact is very visible for women and children. Women belong to the family and do not have much right to choose about their own future. Deciding whether to work or not, choosing a profession, choosing their spouses is not in their hands. What is decisive is the family's approval. If one defects from the existing social structure, it means that one is immoral. Since immorality would ruin the honour of the family, the respective family member should be punished. In Sulaymaniyah one woman's nose was cut in order to set an example. She was accused of having an immoral relationship which, however, was not proven. After 1990 there were quite a high number of honour crimes in Iraq, which according to Iraqi law were not punishable. If a woman transgressed a social norm, e.g. by being with a man without marriage or eloping from her husband without permission of the family, the tribal law prescribes capital punishment for this behaviour. This punishment is tolerable according to the Iraqi criminal code. It should give the families the right to instruct their children ethically with the methods they choose, be it punishment at home, be it not letting their children attend a specific school. The result is a circle of social relations at home, with the brothers having superiority to the sisters and the father having superiority to the rest of the family. This pattern is reflected at district as well as government level. After the Baath Party came to power in 1968 they were opposed to this tribal society and wanted not only to abolish the tribal names, reflecting the Ottoman style of naming people, but also to do away with these tribal structures altogether. However, the developments in the Middle East were not allowing them to reach their aim.

In Northern Iraq the tribal society helps the parties to maintain their power by assigning their own people to specific positions in the government and by using the benefits of this mechanism for themselves or their families. When the KDP took over the rule of Arbil, first they just kept everything in the same order in which they had received it. In time, however, they started to promote Bahdinani people (from the northern regions of Kurdistan) to be assigned to positions in Arbil City, the supposed capital of Kurdistan. This caused some reaction from Arbili people, still they support the KDP position in the government and in Arbil City for reasons of security and further settlement in the administration and society. This phenomenon does not only occur with the KDP. The PUK is also including some tribes, assigning tribe members to specific apparatuses.

The situation in the south is not different. The head of the Supreme Assembly of Islamic Revolution in Iraq, which is the umbrella organization for Shia opposition groups, is Mohammed Bakr al-Hakim. He comes from the al-Hakim family who for centuries have been scholars. His predecessor Mohammed Sadiq al-Sadr, his name deriving from his tribe, was a well-known scholar of Shia Islam, too. He was assassinated in Najaf in February 1999. These people are known because of the reputation of their tribe. The rise of an individual is quite rare in this kind of society. The routine chain of feudalistic relations continues to exist, making it difficult to ensure life, bread and security under these conditions.



#### **I. 4. Administrative structures and documents**

As has been mentioned, there are three to four administrative bodies in Iraq, if one includes the IMIK as a power in its own region. Since Iraq withdrew from the north, the situation has remained unclear about what is going to happen in the future. Initially a Kurdish government was set up with its own parliament and administration in the north. These institutions gradually broke down as the relationship between the major political parties in the north, the PUK and the KDP, deteriorated and eventually developed into an armed conflict. For the last few years these two parties, which control most of the north, have continued to maintain separate administrations with their own governments, military and judiciary. Although there have been no major outbreaks of fighting for the last couple of years, the two factions have not come any closer together. The USA has been mediating between the two parties for quite some time and quite intensively. In 1998 both parties signed the so-called Washington Accord, which was basically a programme of action to come up with a unified position in Kurdistan. The Accord contained a number of provisions, including the holding of elections in the whole region, a unified administrative and political structure, the exchange of prisoners on both sides, the possibility for IDPs to go back to their homes. During the period of armed clashes many people who were living in Sulaymaniyah were displaced to Arbil and vice versa without being able to return home afterwards. The big stumbling block has been on the financial front. The KDP controls the area where most of the illegal trafficking between Turkey and Northern Iraq takes place. They are the beneficiaries of the large revenue that comes in daily from the taxes levied at the border. The KDP has to date failed to pay the necessary share of these sums to the PUK in order to achieve a more equitable distribution. A small sum has been paid, but certainly not the amount that had been agreed upon in the Washington Accord. So this issue remains a stumbling block and, unless this point is resolved, changes in the administration and the political situation in the north cannot be foreseen.

Moreover, the political entity in Kurdistan has not been officially recognized by the international community. Therefore the passports or any other documents it issues cannot be considered authentic legal ones with only a different issuing authority. At most one can ascribe them a quasi-legal status. Yet, as a sovereign state, the only legal authority issuing passports in Iraq is the relevant department within the relevant ministry in Baghdad.

As far as the procedure is concerned, these passports are never stamped with „Passport Department Arbil“, but bear the stamp of the departments in Kirkuk, Mosul or Baghdad. As the issuing entity is using another's identity it is therefore not possible to formally describe it as legal. On the other hand, since there is no other way it seems problematic to consider it illegal.

ID cards and citizenship documents are issued by the same administration in the north, managed by the respective ruling party. Passports form an exception: one approaches the local authority in order to receive an exit permit with which one has been cleared by the security apparatus and can leave the country. The residents of Northern Iraq do not have the right to go to government officials in the government-controlled areas to ask for a passport. So they get their papers in the north, with forgery being widespread. The authorities in Arbil and Sulaymaniyah may be called quasi-state or de facto authorities. The internet websites of the two dominant political groups KDP and PUK can provide some basic information, like names of officials or various relevant announcements. These websites might prove useful to look at.

As regards documents in the government-controlled areas, there are two printing versions of ID cards: one is yellow with black writing, and the other yellow with red letters. The second form is handed out when the ID card is being renewed. The Sharq al-Awsat newspaper published an article saying that deserters would also get such an ID card. However, it is rather the military completion card, which is no longer a booklet, that bears red writing in such cases. The stamps used are the same throughout the area. The M series passports are the old passports issued by the Iraqi government of which thousands were lost during the Gulf crisis. During the fights between the Kurds and the Iraqi authorities the Kurds obtained a large number of passports not filled in yet. These documents have been used by thousands of people for the last ten years. For a few years the government continued to issue these M series passports, but then officially declared their abolishment within a three years period. They then launched the N series, which people can get from Kirkuk, Mosul or Baghdad.

It has already been mentioned that due to corruption documents which so far an individual applying for asylum could not even dream of can now be more easily obtained. They are not necessarily forgeries, but can be the authentic ones. As at the same time there are a lot of very good forgeries, though, it is very difficult to tell the difference, unless it is a really bad forgery, not in the usual format, signed by too many people or with other oddities.

Moreover, a person holding forged documents should not necessarily be considered to be mala fide. For those coming from Northern Iraq or from specific families from the government-controlled area it would not be really possible to approach the authorities to get a passport. People in the north would go to a specific district in Arbil, show their ID card and get a passport which signifies clearance from the KDP security apparatus to exit the country. In such a case the main information and everything else contained in the passport is genuine, even if the document form or the issuing authority are not official. However, this does not indicate that the individual is trying to hide his identity as they do not have any other means at their disposal.

In Jordan one also can buy almost anything, even educational qualifications to go to Yemen or Libya for work. The route from Iraq to Jordan is very dangerous for those leaving the country illegally. So people tend to pay their way out. The same applies to Syria or Lebanon: it is easy to buy documents, provided one has enough money.

Whether it is also possible for Syrian, Jordanian or Palestine nationals to obtain Iraqi passports or nationality documents simply depends on the amount of money they can come up with. There is a serious market for documents not only in Istanbul, but also in Arbil where it is no problem to buy an Iraqi nationality paper with the required name and photograph, provided one has enough money. However, exiting the country will be a problem, if there is trouble with one's identity or if the security officer registering the departure gets suspicious.

It is important to differentiate between forged and real documents. As one can get a very good forgery, one does actually not need a real one. First, it would require higher amounts of money; and second, it would involve greater risks. In view of the thriving black market one would therefore not go to such lengths, but get a forged passport either from Northern Iraq, Istanbul, Damascus or Beirut. Only if one is desperately trying to get one's family out of Iraq, one would take the financial efforts and the enormous risks of trying to get a real Iraqi passport. Under these conditions it is also possible to receive a copy of an execution warrant, to have one's name removed from a computer database or to have one's profession changed in the passport.

A Syrian has to leave Syria and go to the department in Iraq to get a genuine Iraqi passport. The problem in this case is not so much exiting the country, but reaching the issuing authority in the first place. Of course it is possible, but at the same time it is quite illogical and not really necessary. They would rather get forged documents like a lot of Iraqis themselves do, which does not prevent them from getting asylum due to the situation in their home country.

Irrespective of documents, identifying a person as coming from Northern Iraq is a matter of credibility and also depends on the quality of the interview. Apart from those born in Kurdistan after 1985 people from the north speak Arabic. Identifying them will prove very difficult, unless one has the appropriate expertise at hand provided by people coming from the region.

## **I. 5. Human rights situation**

### **General remarks**

The main problem that comes up in decision-making regarding Iraqi refugees is the insufficient information or lack of verifiable information. There are no easy ways to verify whether a certain piece of information is true or not. Iraq is a country that has basically been closed to the outside world for many years. Even though the situation has vastly changed since the imposition of sanctions, the difficulties in taking decisions in an asylum case remain the same. When trying to assess the truth of some information, one can apply the general rule that the human rights situation is always worse than what one hears. The stories that come to our ears represent only a small fraction of what is actually happening in the country. There are of course instances where this information turns out to be inaccurate or exaggerated. Yet, if one learns about numbers of arrests, disappearances etc., one can generally assume that this is just the information that has managed to filter out of Iraq one way or the other while the factual situation is usually worse.

This fact was very well demonstrated after the uprising in 1991 following Iraq's withdrawal from Kuwait. During the three weeks when the government lost control of many parts of Iraq large amounts of documents that belonged to the Iraqi intelligence service fell in opposition hands and subsequently found their way out of the country. HRW examined a very large number of these documents. After the withdrawal of Iraqi governmental forces from the north of Iraq it was possible to visit that area, not only meeting individuals, but also further examining the documents and their content. They showed very clearly that what HRW had been saying about the human rights situation in Iraq over all the previous years was very much an underestimation of what was actually going on. HRW had been informed that the Iraqi authorities had issued orders that certain areas or villages be destroyed or that soldiers shoot anyone returning to a village that had been declared prohibited. HRW was very reluctant to publish this information as there was no way to verify it, except the account of people who had come from these areas. Later the actual orders were found among the documents. Therefore HRW's assumptions about the human rights situation in Iraq have in fact been justified.

In this context it has to be added that information provided by IFIR, the International Federation of Iraqi Refugees headed by Maryam Namazi, has to be treated with caution. The UNHCR BO in Ankara does neither have confidence in IFIR nor in Maryam Namazi herself. IFIR is acting like a refugee producing NGO instead of a refugee supporting or representing NGO. People are being encouraged to go to Turkey and to contact IFIR. The fact that they are promised to receive asylum and to be resettled to a third country right from the beginning gives rise to suspicions against this

NGO. Namazi, who is a member of the Worker Communist Party of Iraq (WCPI), has made a big effort to establish a refugee council in Turkey. She deserves respect for that since it is legally not possible to establish such an institution in Turkey. However, it destroyed the UNHCR system of refugee representation and turned into an instrument of WCPI, so that it had to be abolished. UNHCR is now trying to establish an alternative. At any rate, information provided by IFIR always has to be checked and counter-checked.

### **General situation**

Since its rulers do not rely on the majority of the population, but rather have to defend themselves against the greater number, Iraq is quite suppressive, without any understanding for democracy. The suppression indiscriminately affects anybody who could be a risk for the ruling regime. There is no tradition of democracy in Iraq. In the country's past there has never been an election to choose the leader. A change of power has always occurred after a coup d'état or revolution, depending on one's perspective. Saddam Hussein followed Ahmad Hassan al-Bakr in 1979, not by an election, but simply by taking over power. These days the situation in the country is rather chaotic. Society is quite corrupted and suppressive. It has always been suppressive, but never this much. The division of Iraq caused disintegration among the Arab rulers of the country. Furthermore, the control over the south does not wholly lie with the government. Especially until summer 1999 it was quite risky for the security forces to be out in the streets at night, particularly in the regions of Basra and Imara. Several political groups have claimed the responsibility for or success of creating this insecurity. Yet, it is actually the tribes in the south, having been suppressed for centuries, who are conducting these activities in their region.

Parallel to the drastic changes in Iraqi politics and society during the decade of sanctions there have also been shifts in the human rights situation in the country. The central point is that after the uprising the centralisation became tighter at the security, military and information levels as well as many other aspects of society. The kinds of people who then fell victim to human rights violations changed gradually, resulting in a new kind of asylum applicants. Before the invasion of Kuwait and the subsequent imposition of the sanctions they were the 'traditional' victims, i.e. either members of prohibited political parties or deserters and defectors or people suspected of disloyalty to or criticism of the regime. They all fell into the category of suspected political opposition, whether actual or imaginary. These people tended to belong to one of the Kurdish, Assyrian, Turkmen or the various Shia Muslim groups. Today, while these persons are still at risk, there are also new kinds of victims, namely people who formerly used to be part of the system, like persons who used to work in the armed forces, in the security and intelligence services, in the official media or the teaching profession. They were never suspected of being active in the opposition or having any other opposition links, so that - except for particular individual cases - their loyalty was never questioned. They are also Sunni Muslims while in the pre-sanction period the percentage of Sunni Muslims becoming victims of human rights violations was comparatively small. A lot of these individuals may not have come under direct abuse themselves (like torture or imprisonment), but more and more people leave the country for pre-emptive reasons. They think that fleeing the country together with their families is the best thing to do at this point, if and as long as they are able to do so, thus avoiding 'their turn to come'.

The question is in how far one can assess this information, but also to which extent these people have been involved in human rights violations themselves. It is very difficult to verify these issues, unless the person or the incident in question is well-known. There are no easy answers. The trend of these people leaving the country will

continue until the situation in Iraq changes sufficiently for people to feel comfortable about staying or even to think about returning there. This basically means a change of the regime and the establishment of a form of government that is at least semi-democratic.

As for the discussion at the international level, in the days before the invasion of Kuwait human rights organizations were of course trying to raise the issue of the grave human rights situation in Iraq and to get the international community to act on it. Unfortunately, they were not successful since human rights tend to be at the bottom of the agenda of the international community and tend to lose out to political and strategic interests in the respective country. Many NGOs, including Amnesty International and Human Rights Watch, year after year approached the UN Commissioner on Human Rights in Geneva and tried to just get a resolution passed condemning the human rights situation in Iraq. They always failed in their attempts, until upon the invasion of Kuwait a Special Rapporteur was appointed to report on the human rights situation in Iraq. Max van der Stoep was the first UN-appointed person to look at the human rights situation in Iraq in some detail and did an excellent job in keeping it on the international agenda, issuing a number of well-known reports. At the beginning of 2000 Andreas Mavrommatis took over the position of Special Rapporteur. In comparison to Max van der Stoep he has a totally different approach to monitoring the human rights situation in Iraq. He would like to open a new page by trying to visit Iraq and entering into a dialogue with the Iraqi government. So far there has not been any consenting response from the Iraqis. They rather protested when Mavrommatis met members of the opposition parties which is of course part of his normal work. In the meantime he has been to Kuwait and will also speak to some of the refugees in Iran and Jordan to gather more information.

### **Human rights in the government-controlled areas**

The trend has continued towards gross and widespread human rights violations in form of arbitrary arrests, detentions without trial, torture, disappearances, executions both in application of the death penalty and as extra-judicial killings as well as in form of ethnic cleansing. None of these acts have abated in recent years. HRW continues to receive a lot of information on these issues the verification of which is a problem in a country one cannot actually go to in order to interview people about such incidents. This difficulty can be partially solved by visits to Northern Iraq. However, since the route from Turkey to Kurdistan has been closed for human rights and humanitarian organizations, such visits have become more difficult in recent years. The only routes open are either the one via Syria or via Iran, which, however, have proved very difficult to take for human rights organizations. So far neither of them has been accessible for us. Still, in the north one can principally interview people who have recently come from government-controlled areas, in particular people forcibly expelled from Kirkuk and other areas as part of the ethnic cleansing campaign. Many of them are now in Kurdistan where the majority live in refugee camps. They can give first-hand accounts about the situation in the government area. Yet, at this time it is very difficult to obtain such testimonies and as long as it is not possible to go there, HRW cannot provide detailed information.

What can be said, though, is that all these human rights violations are continuing on a vast scale. Recently there was press coverage on information released by the UK Foreign Office and concerned with different incidents, like the execution of a number of prostitutes. At least 50 prostitutes were apparently beheaded with swords and their heads were placed in front of their homes as a kind of lesson to others not to do the same. The figure varies: other accounts give a number of 180 prostitutes being killed that way. The Foreign Office documents are supposed to draw on informants from

inside Iraq. Again this information remains subject to confirmation. Although in some instances the Iraqi government does pass decrees which sanction such activities, HRW does not have information that they have done so in this case.

After the end of the Iran-Iraq war there was quite a high number of honour killings of women by male relatives. A lot of these incidents took place after the return of soldiers from the front who found that the situation at home had vastly changed and that their wives – having had to cope without them for several years - had maybe formed extra-marital relationships. After several killings had already taken place the Revolutionary Command Council passed a decree which sanctioned these killings. Even though this decree was subsequently abolished, it is an example that sometimes killings do take place and that then the government passes a decree which ex-post legalizes these practices. If there is sufficient pressure or if the situation does no longer exist, the decree is abolished again. Regarding the case of the prostitutes, there has not been any decree specifically dealing with this matter, but that does not mean that there will not be one. It could also be one particular wave of killing that will not recur in the future – it is difficult to say. One has to monitor the situation and observe the developments.

### **Human rights in Northern Iraq**

In the north of Iraq there certainly has been an improvement in the human rights situation as far as some of the violations carried out by Kurdish opposition groups are concerned. Amnesty International published a report about the abuses carried out by the various political parties. To a great extent it is fair to say that the situation has improved since the mid-1990s in the sense that many of the secret prisons have been closed and many of the detainees, especially by the two main parties KDP and PUK, are now held in officially recognized prisons. The ICRC visits these prisons on a regular basis. Still, arbitrary arrest is an ongoing practice. The last figures of the ICRC as to the number of prisoners they visit is roughly 500 detainees held by KDP and PUK. These are not only members of the other party respectively, but also people accused of infiltration from Iran and carrying out acts of sabotage in Iraq. They are not prisoners of war (POW). Both the judicial systems of the KDP and the PUK are based on the general Iraqi system and hence apply the Iraqi Penal Code and the Code of Criminal Procedure, with the exception of some articles which have been suspended until the general situation in Iraq will be resolved. Most of the prisoners will be tried before ordinary criminal courts, still there are some at the present time who are held without trial. Another aspect of improvement is that the majority have easier access to lawyers and are more often brought before a judge now than used to be the case. In implementation of the Washington Accord there has so far been only one exchange of prisoners of war between KDP and PUK. Of course the interpretations of the term 'prisoners of war' differ: Those arrested during the conflict either returned or got lost, having been killed in the field or in prison. However, those who were accused of espionage on behalf of the other party are kept in detention as they are not considered to be POWs, but criminals.

During the fights in August and September 2000 reports had it that the PUK had arrested some PKK members, however, they were not actually confirmed.

Moreover, there have also been reports of torture and the imposition of the death penalty by both parties, although the numbers of executions have also decreased.

## **Prisons**

Summarizing the situation in the Iraqi prisons is very difficult as first one would have to differentiate between those which are known and those HRW does not have knowledge of. There are some notorious prisons like Rahwaniyah prison. This one is in fact a detention house which in general is a worse place than a prison. Detention stands for interrogation. Rahwaniyah is one of the worst places in Iraq. Rahwaniyah has in fact three different sections one of which is a prison and the others are places of interrogation. One is brought to either of these sections depending on the gravity of one's offence and on one's identity.

There are some older prisons, like the Abu Ghraib prison near Baghdad, some sections of which are more open. The ICRC visits foreign prisoners who are held there. Criminal offenders can get visits from their relatives there. In the closed parts there are large cells containing an unknown number of prisoners. Usually the only way to gather information is to get a testimony from somebody who was released from such a prison, but still the information is scarce.

Others are held in secret places where they are taken blindfolded and thus cannot tell about the location. There are some unofficial places of detention which are known to be used for this purpose, e.g. the offices of the National Olympic Committee of Iraq which is headed by Uday Hussein. There a smaller number of people are held for a shorter period of time according to Uday's will. Some places of detention are simply offices in some ministries; others are to be found underground in military garrisons.

On the whole the conditions in the prisons and detention places are horrible. The situation in Northern Iraq is not better than in the government-controlled areas. The KDP was harshly accused of using mistreatment as an interrogation method in the new Aqrah prison. The PUK has specific personnel for mistreatment. Especially people accused of espionage may not come out of prison alive. Torture is a very serious subject in the north, too.

## **Internal displacement**

It is only IDPs who do not fit into the described tribal pattern of Iraqi society. The number of IDPs in Northern Iraq amounts to about 220,000-250,000 people. Three different groups of IDPs can be identified.

One group includes an estimated 100,000 people who were deported from government-controlled areas, especially from Kirkuk, Khanaqin and Mosul. They were sent to Northern Iraq for several reasons, yet the majority of them were accused of having affiliations with the opposition parties in the north or abroad. Being a Kurd or Turkmen also sufficed as a reason. The policy of the Iraqi government is very systematically implemented in and around Kirkuk. Everyday 5-6 families are deported to Northern Iraq.

The 1997 population census did not include the northern part of Iraq which was under Kurdish control. Following the policy of ethnic cleansing or the Arabization programme, the residents of Kirkuk, the large majority of whom are Kurds and to a smaller extent Turkmen, were asked to sign so-called nationality correction forms in order to be included in the census. Filling in these forms meant that they declared themselves Arabs and rejected their ethnic origins. If one refused to do so, certain consequences would follow, above all being forcibly expelled from the region. While this would not happen to everybody the government sometimes targets either different professions or

different areas. This measure was a successful element of a planned operation to arabize the region.

The other kind of displacement happened in Northern Iraq after the conflict between the PUK and the KDP, especially after the KDP gained the control over Arbil City, which had been in the hands of the PUK since 1995. A forcible exchange of population took place from Arbil City to Sulaymaniyah City and vice versa, affecting around 50,000-55,000 people respectively (100,000-110,000 all in all). These people were sent to the other town just because they were accused of being affiliated with the other party. They lost their social status and support as well as their property: houses, cars, land. This relocation was one of the important factors leading to asylum applications in those years, especially after 1996/97.

Another group of people was forced to evacuate the region around Al-Amadiyya due to Turkish pressure, arguing that it was a PKK operation area. These people were living in tent camps for more than two years. Last year the KDP finished building accommodation complexes for them where they are now settled. While these Al-Amadiyya people, numbering 22,000-25,000 people, have thus got new places, the KDP's attempts to depopulate the region did not succeed because Turkish aircrafts bombed areas very close to the mountains, causing the death of twelve people. The KDP thereafter simply postponed its 'project'.

The signing of the Washington Accord has not changed the situation since there is no trust between the parties. There was a discussion in a high co-ordination committee to exchange 30 families from each side as an example, but these plans were not successful.

The displacement had of course serious effects not only on the individuals, but also on social relations. Those who left Kirkuk, Sulaymaniyah and Arbil found themselves in new places and in a new atmosphere. People residing in those places were confronted with a challenge for accommodation, food and jobs. While their future had not been secure before, they suddenly found a new neighbours that maybe they never would have liked to have. Sharing the tribe, the culture, the past, these people were welcome in the beginning. However, as numbers continually rose, people coming from the government-controlled areas around Kirkuk to Arbil were not very much tolerated by both the locals and the authorities. The locals started to keep distance from the newcomers. The IDP situation is more or less at the limit. The KDP immediately took measures, requiring the IDPs to abide by given conditions, if they wanted to stay. Therefore the Arabs as well as those Kurds and Turkmen who were obliged to leave government-controlled areas preferred to go to Sulaymaniyah where they could find better social conditions. Displacement is defecting individuals very much since they are losing all or most of their social connections. This, however, does not imply the total destruction of the tribal or ethnic identity in their families. In the KDP-controlled area the IDPs are mainly living in residential centres provided by the Kurdish authorities. The conditions there force them to find jobs of whatever kind. Unlike in the past, the splitting of families is quite common.



## **Religious groups**

### **Shia**

The recent years have been characterized by an ongoing conflict between many of the Shia centres in Iraq and the government, notably in the south, in Najaf and other holy cities, where the majority of the Shia population live, as well as in central Iraq. The problem for the government is the political significance of Shiaism as opposed to Shiaism as a religion. In many countries of the region the absence of other means of expression, association and representation of one's rights is reflected in people congregating around religious figures. The occasional Friday prayer gains a much higher political significance than it would usually have and is used as a launching pad for demonstrations and protest as could also be observed in the current conflict between Palestinians and Israelis.

The same thing happened in Iraq. The most successful of the religious leaders able to unite people was Ayatollah al-Sadr, who was assassinated in Najaf in February 1999. As one of the most respected Shia figures he sparked off a whole wave of discontent in Iraq. His success lay in the fact that he was able to unite large sectors of the population, even some of the Sunnis went to listen to what he had to say. Following his assassination 30 religious school students had reportedly been executed and large waves of arrest have since taken place. People who were known or suspected to be his supporters, students or relatives were immediately arrested. The arrests of suspects are still going on. A number of these people were tried and sentenced to death in May 2000 for their presumptive role in inciting the people against the government. By the end of 2000 it was unknown whether the death sentences had been carried out<sup>2</sup>. If one looks for a proper political organization around Ayatollah al-Sadr and his supporters, it is in fact difficult to pinpoint. All his supporters would tell that there was no political organization, but merely a religious community. Still, people used this forum also for political purposes in order to express their discontent with the situation.

When interviewed at the beginning of 2000, some of the Shia refugees who had come to Syria in recent months reported that while in detention they had been interrogated about specific Shia underground movements. They mentioned the names of several organizations which they were accused of having set up, taken part in or been involved in. They denied the existence of such groups. Whether it is true that such organizations do not exist is difficult to state since sometimes there are some secret groups which they prefer not to confirm the existence of.

The relations between the majority Shia population and the government will probably continue to deteriorate as long as the situation remains the same. There are many outstanding cases of Shia scholars and students who have disappeared during the 1990s, not to mention the 1980s. Their fate is unknown, they are unaccounted for. They may still be in prison. Some of them are known to be in Abu Ghraib Prison near Baghdad as long-term untried detainees. The Iraqi authorities always fear that another religious figure will rise up and manage to unite people in the same way as Ayatollah Al-Sadr had done. This is one of the principal reasons that leads many people to the decision to flee. They feel persecuted because of association, either as friends, relatives or associates.

As far as the Shia opposition groups are concerned, these days very few of them do have a real presence in the country. Moreover, many of them have by now split into

<sup>2</sup> US Department of State: 2000 Country Reports on Human Rights Practices: Iraq, Ch. 1.g.

splinter groups which has of course reduced their effectiveness. It is a very dangerous situation for them where it is very difficult to do any active work. The fact that a large proportion of the marshes have been drained by the Iraqi authorities has also worsened the situation as there are fewer places for such individuals to take refuge in when the situation requires it. While many draft evaders and military deserters are also hiding in the marshes the majority of people there are Shia Muslims, who do carry out occasional military operations against Iraqi patrols. The drainage of the marshes has removed a large proportion of this shelter. Parts of the route between the marshes and the Iranian border have been drained as well, so that this route has become more easily controlled by Iraqi government forces. So the situation is very precarious now for all of them.

### Christians

Quite a number of asylum seekers - members of the Assyrian or Chaldean groups - do apply on the basis of being persecuted as Christians,.

In Northern Iraq the Christians have five seats in parliament and also a ministerial post in the KDP cabinet. They mainly live in Arbil, especially in a district named Ein Kawa. UNHCR has not learnt about any discrimination against Christians because of their confession. Some problems occurred with apostates of whom there were five all around Northern Iraq according to UNHCR's knowledge. One was killed in a bomb attack at a book store in Arbil in 1994. Other individual incidents include the case of a bomb being placed in front of a Christian woman's house and killing her. Yet, this attack had nothing to do with the Islamist parties or the ruling parties in Northern Iraq. Rather it was an operation of the Iraqi government to deteriorate security conditions in the Christian districts where the UN and NGOs are based.

In the rest of Iraq they are safe, unless they are in some way affiliated with a political party. Yet, supposing there are five people affiliated with an Assyrian party and one of them is Christian, this one is the one most likely to be accused. Like in many other places, minorities are usually the first group being held responsible for any mishappenings.

On the other hand, minorities have also always been coopted by the Iraqi regime in order to buttress and support the regime in some of its activities. Christians are in fact integrated in the security forces and the intelligence apparatus in quite sensitive positions. Others have prospered economically. When it comes to persecution, there must always be another element causing the individual to be at risk.

### **I. 6. Future political perspectives**

There are different points of view about the current state of the regime. Some people are of the opinion that it is gaining strength or that it will rise again. Of course, Iraq has managed to break a great deal of the isolation that it has been in for the last ten years. It has done that through a concerted effort of waging a public opinion war and is winning this war to a large extent through the situation that has been created by the sanctions. Investing large amounts of money, it has focused its effort mainly on the USA, but also the UK and Europe, to gain support there in order to increase the general opposition against the sanctions. So in this respect the regime has largely achieved what it has set out to do.

At the same time, however, other measures taken by the regime indicate that internally it has in fact been weakened considerably. The more the circle around the regime tightens and the more measures the regime takes in order to consolidate its position -

restricting and centralizing authority and placing trust in extremely few individuals -, the clearer the indication of a regime feeling threatened and taking these orders to ensure its very survival becomes. The anti-Western sentiment in Iraq is real, but probably not as strong as pretended. Despite the hardships that the Iraqi people are facing there is a significant amount of support for continuing sanctions in Iraq itself. What people deem important is to achieve freedom from the arbitrary nature of the regime. This sentiment exists, but is very often not reflected in what one sees in the media and reads in the newspapers.

If the regime will stay in power or not is very difficult to say. Who would have thought that ten years from when the sanctions were imposed the regime was still going to be in power? Thinking that the end of the regime was near, people published articles in the official newspapers, which were not sanctioned before, and were subsequently arrested and fell victim to human rights violations. During the first two years after the uprising people thought they could cross a red line, but they turned out to be wrong.

How a change will happen, remains yet to seen. One of the problems has been that the opposition is not strong enough. The Iraqis themselves say that the opposition is not credible. There was a golden chance in the north to do something, not in terms of changing the regime, but at least of providing hope for the rest of the Iraqi population. Once the Iraqis withdrew from the north, all the eyes in the country were on what was going to happen there. People knew that it was not going to become a Kurdish state, but it was an opportunity to show that there is an alternative. At some moments in time it looked as if it was going that way, but then things broke down.

It is true that the majority of the discussions between the KDP and the PUK are concerned with this money problem, but the question is also: Who is going to be the leader of the Kurdish society or the de facto Kurdish state or the expected future Kurdish state? This point is a serious issue as well. The latest dispute between the two parties focused on the identity/designation of the Speaker of the Parliament. The question of leadership is decisive for both of them.

**Presentation by Mr. Akif Atli,  
additional remarks by Ms Hania Mufti  
13 November 2000**

## **II. Groups at risk**

### **II. 1. Government-controlled area**

In the government-controlled areas any political affiliation suffices to be persecuted by the Iraqi government, not having any understanding for opposition. As described before, even positive criticism is not welcome. According to the law, there is the right to establish a political party. UNHCR has knowledge that the Iraqi intelligence service even approached several individuals asking them to establish political parties. However, none of the political party affiliates are tolerated, unless they are directly connected to the intelligence service. Therefore members of the Arab Sunni opposition, considered as the greatest risk for the present regime, face the risk of punishment, be it the Iraqi National Alliance, be it the Iraqi National Gathering, the Iraqi National Congress or any of the minor groups. These groups are known to be the biggest challenge to the authorities as a Arab Sunni party could replace the ruling Sunni Baath Party more easily and settle in the system faster.

Arab Shia opposition has been harshly suppressed since the beginning. Shias who were arrested in the streets during the uprising of 1990 were shot on the spot. The members of groups like the Supreme Council of Islamic Revolution in Iraq, which is the Shia umbrella organization, the Al-Dawa Party or the Followers of Al-Sadr, who seem to have set up a group operating against the Iraqi positions in the south, are extremely harshly punished. Torture is widespread in detention. As for the Followers of Al-Sadr, there is the order to kill them wherever they are found.

The Marshland tribes, the Jebayish people, are not welcome, either. It has been impossible for the government forces to control the area. The Shia tribes there continue to live as they have been living for centuries and suppression has not really been successful in this respect. However, they face a lot of oppression now. If they are suspected of assisting opposition members, their clan as a whole will be subjected to systematic persecution. During the last two years the Iraqi army was using artillery against tent villages and minor villages.

Affiliation with Kurdish parties is of course also a crime. The KDP, the PUK and the IMIK are illegal political parties in Iraq. Acting on behalf of these parties is punishable. However, there were cases where the Iraqi Security Department tolerated two KDP members after specific efforts of Massud Barzani himself. Other than that, exceptions or changes in the government's attitude have not been heard of. The existence of a KDP and PUK Northern Iraq and the fact that the government communicates with them does not mean that the members of these parties will be tolerated in the government-controlled areas.

Equally, affiliation with Turkmen parties is a crime as they are accused of being agents of Turkey. They are illegal parties, so their situation will in no way be better than that of affiliates of the Kurdish parties.

As for leftist parties, one cannot say that there are very many, given that the Iraqi Communist Party lost its efficiency a long time ago. A new one has again been

established in the north, carrying out some propaganda activity in the south and among the Shias in Basra and Baghdad. Moreover, there is the Workers Communist Party of Iraq and Leftist Baath Party. Affiliation with either of these groups is punishable.

Furthermore, the government is very much concerned about the political activities of the military officers. The military is not entirely Arab. There is no discrimination in the recruitment, so that everybody is admitted to the military service. Still, they definitely prefer to have Baath Party affiliates as officers. The Baath Party would promote Sunni Arabs and Christians for high ranks, yet this is not necessarily the case. There are Turkmen and Kurdish generals as well in the Iraqi army. Since it was the military that brought Baath Party to power, they know that it will be the military again that will remove it from office. There are some officers' groups, like the Free Officers (Dhubbat ul-Ahrar) or National Salvation Movement, that are mainly based on the officers' aim to change the regime. Iraqi government has no tolerance for Iraqi military officers or employees to be affiliated in politics, with the Baath Party forming the only exception.

For a number of years it has been a death penalty offence for military personnel to be affiliated with any party other than the Baath Party, even if they had stopped being members, yet never revealed their past involvement. Anybody who is merely suspected of such affiliation - without an actual accusation brought against him - will be arrested and end up in the Military Security Department in Baghdad where torture is the basic interrogation method. Every year 30-40 officers are being executed on the charge of organising a coup d'etat which is only true for some of them. Clearly, military personnel and officers suspected of opposing the regime represent a group at risk.

When it comes to political affiliation one should not omit the Christian parties: the Assyrian Democratic Movement and the Beyt-ul Nahreyn groups. Members and affiliates are equally at risk of persecution just because of their political opinion.

Individual criticism is not welcome, either. Anyone who criticizes the regime, the party, the Al-Majeed family or Saddam Hussein himself will be prosecuted under the Article 202 of the Iraqi Criminal Code number 111, dating from 1996: „Whoever insults Arab people, Iraqi nation, a group of Iraqi inhabitants, the Iraqi national flag or emblem, the Iraqi state or President shall be punished with imprisonment of not less than ten years.“ This is the old version while in early 2000 the Deputy President stated that those who criticize the regime should have their tongues cut. To serve as an example, two persons' tongues were cut. This statement did not turn into a decree, but in view of the high level of arbitrariness, individual criticism that comes to the notice of the authorities will imply considerable danger. It is not only bad talk that is punishable, but speaking disrespectfully about the Baath Party and the leadership will suffice for punishment.

Within the Baath Party hierarchy there is the obligation to report to a higher level, starting from the district level, the classrooms at school, the platoon in the army. The Iraqi reporting system works much better than in many other countries. With an overall population of around 20 million, the Iraqi security apparatus has an information processing personnel of more than 50,000 people, not counting Baath Party officials, military staff and informants.

The way that the regime has survived over the years is by implementing a policy of shared responsibility. Therefore not only the people assigned to spy, to execute or to torture are to blame. This is one of the reasons why the regime has lasted such a long time. After Saddam Hussein had taken power in 1979, one of his first acts was to execute the other members of the previous government. Of course he did not commit the killing himself, but made other ministers carry out the shooting. So from the very first moment they all had blood on their hands. This principle has been applied

throughout society down to the lowest level, down to the children. Over the years the fear has reached such an extent that an individual overhearing a remark which is critical of the regime has to decide for himself whether to report it or not. If somebody finds out that s/he heard it and did not report it, the person will suffer himself and may face detention or worse. One has to be careful in front of whom one says things, even in one's own home. Clearly, in such a system it is fairly easy to find out who said what. Having taken part in the crimes, many individuals find it therefore very difficult to abandon the regime.

High rank military and administrative officers who are suspected of criticizing orders or of being in contact with the opposition or who hold too secret information and are thus a risk factor face the threat of being executed. Therefore HRW receives very many applications of military generals who were requested to resign or get retired. As soon as they retire they have to leave the country as they cannot take the risk. As long as they are within the system it is easy to control them and keep them busy. Yet, the moment they leave the system they find themselves in a dangerous situation. Including the Minister of Defence, retirement may thus end with execution or assassination.

Another group at risk are important tribal personalities, like the heads of the Dleyme tribe who were involved in an uprising. The forthcoming important members of this tribe were under investigation. Some leaders were killed and their affiliates chased into the desert down to the Saudi Arabian border. If these people do not abide with the instructions of the ruling family or the regime, they can be at risk, too, especially members of Arab Sunni tribes.

Refusing to co-operate with the regime will also put a person into a risk situation. He will be proposed a mission or a duty, and if he does not want to fulfil it, he will be asked: „Do you not like the country? The country is holy“, or: „Do you like the country, but not the leader?“ Answering these questions in a wrong way means execution which does not leave much of an option. Either one does what they require or one leaves the country. It is hardly imaginable that somebody says: „No, I cannot do that.“ Instead they try to find the best way of leaving the country after receiving this proposal, which could be anything: going to the north to carry out sabotage, gathering information, being in contact with relatives abroad to encourage them to return or to gather information useful to Iraq there etc. The risk stems from two factors: first, the mission has been disclosed to the person in question; and second, the individual has proven disloyal by refusing to co-operate.

Refusal does not occur very often since the kind of people who are asked to perform these missions are already very much part of the inner circle. Instead of being given a choice they are just automatically assumed to comply. People who are entrusted with these missions and duties are being heavily rewarded with financial and other kinds of compensation in order to retain their loyalty to the regime. While normally such proposals are thus restricted to a small circle there may also be cases where people who are somehow in conflict with the regime are forced to comply in order to avoid further harm to their families.

Furthermore, someone who refuses to become part of Saddam's Fedayeen group will be taken into custody and questioned by the Saddam's Fedayeen themselves why he refused to join them. In such a situation one needs a proper explanation, e.g. that one had five children and the salary would not be enough to support them or one had a prosperous company, paid high amounts of taxes and fed the Baath Party considerably. If one is not a suspected person, under these conditions one may avoid harsher consequences. Yet, otherwise it may be a question of life and death.

People who stay abroad longer than they should are also at risk. Primarily government employees who were on a mission and whom it took longer to get back to Iraq than they had been supposed to fall into this target group. They will be investigated upon return, and even though investigation does not necessarily lead to prosecution, there is quite a high risk for these people, if they cannot explain why they are not back on time. The effects of Saddam Hussein's amnesty of July 1999 are still somewhat unclear. Whether it can be considered as a guarantee that people who illegally left the country are not punished upon return remains doubtful. HRW's experience is that those who go to an Iraqi embassy abroad pay a fee of approximately \$ 100 and then get their passports. Returning to Iraq thereafter is usually not a problem. There have been no reports that they were prosecuted in Iraq in absence or upon arrival. Yet, neither does HRW know of anybody who returned to Iraq and came back afterwards. At the same time HRW has not received any reports of prosecution, either. There is thus uncertainty as to whether the amnesty is being implemented or not. What can be stated is that the amnesty before the present one has been implemented. After announcement of the new amnesty some returnees were investigated and had their backgrounds, activities and relatives abroad checked. If nothing met the criteria for prosecution, they were allowed to go home.

In general, the texts of the amnesties are very clear about who they include and who they do not refer to. If the 1999 amnesty also applies to people merely leaving the country illegally, it will be very specific on this point. If it is put in general wording and does not specifically mention this group of people, it will not be applicable to them since the amnesties normally name the kinds of people they refer to, e.g. teachers, doctors etc.

The military amnesties were among the few amnesties which were actually implemented in Iraq. People accused of military evasion, desertion etc. were urged to give themselves up to the authorities which many of them in fact did. In many of these cases the amnesties were actually applied. As for the amnesties concerning political activists, the international human rights organizations fear that, if people do give themselves up, they might become victims of human rights violations. This has indeed happened in the past.

Draft evaders and deserters can find themselves in a risk situation, too. According to the UNHCR Handbook military service is obligatory and we expect people to perform this national service, unless they are forced to commit crimes against humanity. This is the case if one is expected to shoot at civilians in a specific region or if artillery is deployed against the villages in the south. Being known to be the backbone of the army, military officers are given political importance in Iraq. They are expected to be loyal to the regime which is depending on them. An officer is a very important instrument in the Iraqi army. He receives full support from the government, respect from the soldiers and represents the state, the military and the district. In society the army has always been regarded as the founder of the republic, the defending power against the Iranians and as serving the aims of the Baath Party. As they receive secret instructions, which are to be implemented later or at the time, their testimony is very valuable both for and against Iraq. Therefore their desertion is considered to be a political act and thus quite seriously punishable. Since Iraq considers itself to be at war with the West or the USA, desertion could be punished by death. The UNHCR Guidelines for Iraqi refugees and asylum seekers recommend not to reject military officers who have deserted.

Economic crimes, i.e. serious corruption and foreign currency transfer out of or within the country, are regarded as crimes against the state, with people accused of trying to diminish the already weak economy. They are punished quite harshly, yet there are

differences: sometimes people are excessively punished for such a deed just because of their ethnic origins, being Shia or having relatives abroad - depending on the individual's merits.

The importance of the economic crimes has increased in Iraq in relation to the deteriorating economic situation as a result of the sanctions. Very harsh punishments, including the death penalty, have been introduced for certain economic crimes. In recent years a lot of people doing currency exchange were arrested and some of them were executed for currency speculation. When Saddam's son Uday was healthy and headed a group of Saddam's Fedayeen, he was involved in clashes with money exchange tradesmen in the streets of Baghdad.

Due to the devastating effect of the sanctions many Iraqi families are nowadays living on dollars which are sent to them by their relatives abroad. As in a normal country under normal conditions it is possible to actually send money from abroad back to Iraq. Money is paid to an individual outside the country and then a partner inside Iraq gives the money in dollars to the family concerned. This system is very common now, with many families totally depending on the help of their relatives abroad. The mere possession of foreign currency is thus not a problem, unless it amounts to large sums.

Another offence for which the death penalty was introduced is the hoarding of certain food stocks, such as wheat, by wholesalers. Sometimes such decrees are applicable only for a particular period of time. The dangerous aspect of the punishment of these offences is that people are not always referred to the normal judicial system. A separate semi-judicial process was introduced. The Revolutionary Command Council passed a number of decrees whereby non-judicial people were given the power of the judiciary, e.g. individuals who are in relatively high posts within the Ministry of Interior or the Ministry of Defence. They have the power to arrest and detain a person in a place which is not a recognized prison as well as to pass a sentence. All this happens totally outside the judicial system, in some cases carrying the death penalty. So the situation in this respect has been very dangerous over the last years. It was in late 1996, early 1997 that a number of these decrees were passed which are still applicable, as far as we know.

Talking about the legal background, the Revolutionary Command Council decision 403, dating from 1992, imposed several kinds of punishment for money exchange as well as containing a list of items which cannot be exported. Four to five years ago two trucks filled with copper were caught at the border to Northern Iraq and the drivers and owners of the trucks were sentenced to death, showing that such harsh sentences are possible.

A number of other Revolutionary Command Council decrees dealing with economic crimes have been published in the Official Gazette and are hence known. Some of them have to do with currency speculation, some with smuggling, some with hoarding food stocks in times of hardship.



## **II. 2. Northern Iraq**

Generally, the situation in Northern Iraq is slightly better, and typically economic offences are not considered major crimes that deserve capital punishment or other severe punishment. On the whole one has to differentiate between the areas controlled by the KDP and the PUK respectively. Although there are certain details which both regions have in common, specific aspects suggest that the different spheres of influence in Northern Iraq be discussed separately.

### **KDP area**

It has to be underlined that the KDP is quite a conservative party, composed basically of a coalition of tribes. Their administration and intelligence apparatus works properly. The intelligence system does of course not work in the same way like the Baath Party does. However, since the individual's affiliation is mediated by his/her tribe first, the system is more decentralized than centrally controlled systems.

They do not have much tolerance for political or social criticism. Especially after they had co-operated with the Iraqi army in gaining the control over Arbil, they have been less tolerant of any kind of criticism. Criticizing the KDP or the Barzani family, whom they consider the leader family of the Kurds, would be a serious offence. The party will use every instrument to stop opponents. An individual persistently criticising the KDP or the Barzani family will be chased and punished. The risks are very much the same as in the government-controlled area: detention without trial, unfair trials, torture during interrogation. While these violations have decreased in the north, they still do happen. The Workers Communist Party of Iraq, in the case of which the criticism took some organized form, was expelled from Arbil and not allowed to return for the last four years. Other parties which are not tolerated by the KDP and are hence at risk in this area include the Kurdistan Conservative Party of Omar Agha Surchi, known to be quite a challenge to the Barzani family, and the Social Democratic Party of Mohammed (in Kurdish: Hama) Hadji Mahmoud.

Members of PUK military forces are not tolerated, either. Unless special arrangements have been made beforehand, it is not possible for PUK militia to cross the KDP region.

Neither do the fundamentalist Islamic groups enjoy much tolerance from the KDP. Whilst relations between the KDP and the IMIK and the Islamic Union respectively are very good, they do not want to tolerate the activities of Hamas, Tawhed and Jihad. These minor groups were quite active in bombing some coffee and liquor shops in the past.

The situation of affiliates of semi-legal parties depends on the status of the respective party or their individual activities. In general, semi-legal means that these parties exist in the region, but in the eyes of the KDP they are not legal and can therefore not be equipped with all rights. Still, their activities are being tolerated. Affiliation with the Iraqi Turkmen Front is normally in itself not a reason to be prosecuted. However, as relations with the KDP deteriorate, a member of the Turkmen Front may face prosecution or pressure from the KDP. The KDP and the Turkmen Front carry out routine disputes, with the tension rising once every year which has lead to a number of killings over the last years. As for the Workers Communist Party of Iraq, several members got into detention in 1996, as has been mentioned before. Today their activity is tolerated in Arbil, yet without their status being made official. They do not have an office, but a kind of semi-legal representation. With regard to Arab opposition groups, there is only a de facto Iraqi National Alliance in Arbil City. If their activities go further than expected, the individuals are called to the Intelligence and Security Department

and warned not to act in a specific way. Another party with such a semi-legal status is the Independent Labour Party. For some time it has been accused of being close to the PKK, but later the KDP withdrew this accusation. In all cases the KDP may act against individual party members as soon as the balance in their relationship is disrupted and the KDP feels challenged.

Affiliates of legal parties do not have many problems, unless the situation changes which can happen very fast. One of these legal parties is the Kurdistan Islamic Union which was established in Arbil and registered with the Ministry of Interior of Kurdistan. However, they could not get a licence to establish a radio station or an branch office in Dohuk City. The KDP is very conservative in Dohuk. They do not want any group to be more active than they are and see the Kurdistan Islamic Union as a serious challenge. It is hard to tell what the KDP will do about activities which exceed the restrictions as they act quite arbitrarily in this respect.

### **PUK area**

In comparison to the KDP, the PUK, in general, has a wider understanding of political expression, so that one can describe them as relatively liberal. This attitude, however, finds its limits in mass campaigns against the PUK as has been the case with the WCPI. They had started a campaign not only inside Northern Iraq, but also outside, in Europe. The reaction of the PUK was to change the location of the WCPI's office. It ended with the murder of five members and several arrests. Otherwise, they do not like to put bans on the freedom of expression, with the exception of active members of the KDP who are not tolerated to disseminate propaganda in Sulaymaniyah. Furthermore, they do not have tolerance for the aforementioned fundamentalist Islamic groups (Hamas, Jihad, Tawhed). The WCPI is a specific case since they sided with the PUK against the KDP offensive into Arbil. However, as has already been hinted at, they never recognized the authority of the PUK and this dispute is still going on. Their office is closed at the moment, but they have got the licence to re-open it. Since its establishment in 1994 the WCPI has changed shape as they aim at being part of the power system in Northern Iraq. They want to be one of the groups distributing food and rendering assistance to the people. They have quite a serious and tough lobby in Europe, organising numerous demonstrations. The WCPI faces a very strong challenge from the Islamist parties. Although they had serious problems before with both the KDP and the PUK, they have been promoted by these parties over the last year. Still, they find themselves in a difficult situation. UNHCR considers their cases very carefully, more carefully than is the case with any other Iraqi party.

One may also encounter tribal problems in the PUK region, especially in the Pishdar region around Raniyeh. There the power really lies with the tribes. Like the KDP, the PUK is somehow bound to the tribes, so that having a problem with a tribe in the region is a sensitive issue which may even end with death.

### **Military**

In November 1991 the Kurdish Front issued an amnesty for all soldiers belonging to the governmental forces regarding the crimes committed beforehand. So a person who fought as soldier of the Iraqi army in Northern Iraq before the establishment of the UN zone in 1991 is not subject to prosecution in Northern Iraq. However, if an individual fought against the Kurds and killed another individual or was somehow involved in the murder and if this fact has come to the notice of the family or tribe, the family may act

against this individual. Yet, UNHCR does not have knowledge of Kurdish institutions in Northern Iraq chasing those who were fighting against the Kurds before 1991.

A very large number of Kurds was employed by the Iraqi government as mercenaries outside the regular army. In Kurdish these persons were called Jash. They are known to have taken part in some of the horrible incidents that took place in the north, including operations involving the use of chemical weapons against civilians. When the Iraqi forces withdrew from Northern Iraq in October 1991, many of these individuals decided to go north with the Iraqi opposition and not to withdraw with the army. They were not held accountable for what had happened in the past as the wish to maintain unity and to start a new page prevailed. There was in fact a discussion between Massud Barzani and Jalal Talabani as to what should be their policy at this time. Each of them took a certain number of these Jash into their own armed forces at the beginning. So there might be individual cases where people take the law into their own hands, but there is no general policy in Northern Iraq which targets such persons.

It is difficult to say whether the authorities provide enough protection against these individual, traditional acts of revenge. It is certainly not really possible to control the tribes in case of a revenge or bloodshed. Still, it is not possible, either, to state that the ruling parties have a policy of tolerating this kind of murder or chase. While people like to forget about things since 1991, there are still assassinations in Arbil and Dohuk with such a background. One of the few incidents was the case of Mohammed BKC whose name derived from the big machine guns they were using. He was charged with a specific operation which became known to the family of the victim. He was chased and assassinated in Sulaymaniyah in 1994, without his family being able to do anything. It is not a widespread problem, though. There is not enough evidence available in order to say: „Yes, I know he is the one who did that on that day.“

Although the Iraqi Penal Code is being applied in Northern Iraq, neither soldiers who deserted the army during the Iraq-Kuwait War nor political offenders are being prosecuted and punished in the north. However, there has been one case of exchange of criminals. The PUK Police Department in Sulaymaniyah handed over one murderer to the Kirkuk Police Department. There is this kind of understanding. However, military criminals - deserters, draft evaders, etc. -, political affiliates and people who were politically important in the government-controlled area, but went to Northern Iraq are neither punished nor prosecuted.

Yet, these cases should not be mixed up with cases of persons who, having been abroad and deported back to Northern Iraq, are taken into custody irrespective of their identity. Unless they are sponsored by someone, they are held in detention from two days to a week or even fifteen days, depending on the circumstances. They are investigated in order to see who they are, where they come from and what they were doing abroad. They are not necessarily mistreated, yet one can suspect that the treatment is very arbitrary and may lead to mistreatment. They are kept in custody until the KDP understands that the respective person is not guilty or a risk to the KDP or until somebody sponsors them. In such cases military deserters may be detained not for reasons of prosecution, but as a measure of investigation to find out who this individual entering Iraq is.

### **Government collaboration**

Acting on behalf of the Iraqi government will definitely not be tolerated in Northern Iraq. Depending on the activity, one will be arrested and might face torture during interrogation. In this case the treatment is quite arbitrary.

HRW visited a number of prisons in Northern Iraq, both official and unofficial ones. There Kurds and Arabs from government-controlled areas were held after having been arrested because of supposedly carrying out acts of sabotage etc. on behalf of Iraq. Some of those who went through the judicial process were sentenced to death and executed; others received various custodial sentences. Due to the fights between the PUK and the KDP in 1996 a number of prisons were damaged and many people managed to escape. Still, evidence of collaboration will in general lead to arrest.

### **Women**

#### **Honour crimes**

Looking for differences in the situation of women between Northern Iraq and the government-controlled areas, it is more common for women living in rural areas to fall victim to ill-treatment and honour killings, while this is less of a concern in big cities, like in Baghdad and its surroundings. In Northern Iraq Sulaymaniyah people are known to be quite liberal whereas the Arbil and Dohuk regions are very conservative areas. There the marriage of the children could be decided when they are born. Like in the government-controlled areas, honour killings will not be prosecuted in the north.

The corresponding law is the Law of Personal Status, dating from the late 1950s or early 1960s. It is not uncommon in the Middle East that the Codes of Personal Status ordain that, if a woman is killed by a male relative for reasons of honour, this fact will be considered a mitigating circumstance which will reduce the sentence. So the perpetrators do not get the full sentence for a murder charge, which would either be death penalty or life imprisonment. In practice, they would either not receive a custodial sentence at all or would be sentenced to between 6 months and 8 years imprisonment.

When the Kurdish administration installed its own system in the north after the Iraqis had left, they declared that most of the laws in force in Iraq - apart from those laws they considered as very arbitrary and unfair - would also be applicable in Iraqi Kurdistan, including the Code of Personal Status and the Penal Code. The question of honour killings is a very serious problem in Kurdistan. Until 1996 360 women were murdered. Earlier this year the PUK passed a decree which suspended the application of the very article in the Code of Personal Status allowing for exceptional circumstances being applied to men in those cases. So now a man killing a woman for honour reasons will not anymore have the benefit of a reduced sentence. However, it is not known yet to which extent this decree has been implemented. Still, by law a man would now be treated in the same way as a woman. It has to be kept in mind that women also commit honour killings in some cases, like mothers murdering their daughters. Yet, in practice they receive the full murder sentence without any benefits.

The question is whether Kurdish society will accept such a change in the law as it has been initiated by the PUK. If one passes a law which is not implementable, one loses the support of the people. The ruling parties in Northern Iraq cannot afford to lose the support of the local population as their future remains uncertain at best.

In the KDP region, which is much more tribal and conservative in its structure, there have been numerous cases of honour killings over the years. Some of these have historical reasons. When the government of Iraq embarked on the changing of the structure of the Kurdish countryside, it destroyed thousands of villages. The people living there were forcibly taken to so-called resettlement camps near urban centres, like Arbil and Sulaymaniyah. The men of the families never returned and are presumed dead. As a consequence a large number of women and children, who used to be farmers and country people, had to live in camps near the cities. In the course of time they became urbanized, forming relationships with people outside their clans, including extra-marital affairs. This development gave rise to a great social problem. Many honour killings happened in this context. Men and women would kill their female relatives for having committed the crime of either marrying outside the tribe or being found pregnant or having an affair etc.

Fortunately more and more people are willing to talk about these honour killings and abuses now. There are women's groups documenting these cases, including Arab women from other parts of Iraq. The Iraqi Communist Party e.g. has quite an active Women's League, some members of which are actually working in Kurdistan, carrying out educational programmes to prevent honour killings. The problems the WCPI was confronted with were partly linked to a centre for abused women which had been established in Kurdistan by one of the women's groups affiliated to the WCPI. It was in this context that some of the clashes took place. Some of the women who were seeking shelter in this place were taken away to a PUK women's centre - all have since been accounted for.

#### Political involvement

The number of women involved in politics is higher in Sulaymaniyah than in Arbil and Dohuk. In Dohuk there were only one or two cases of women being active in politics. In Sulaymaniyah, by contrast, it is quite common in some circles. The WCPI and of course the Independent Women Organization have very many female members. However, in those cases where the family is split in terms of political affiliation - e.g. one part of the family is affiliated with the PUK, another one with the IMIK while an individual woman is with the WCPI - she may be at risk of persecution from her conservative relatives. In Sulaymaniyah City and Arbil City the Islamists were acting on their own against members of the WCPI and the Independent Women Organization.

Furthermore, women following Western habits could be targeted, too. There were cases where acid was poured on women's legs because they had been wearing short skirts. The Islamic Movement was warned about these incidents, so that since February or March 2000 they have shifted their focus from targeting women to preaching in the mosques not to allow Western habits to occupy Kurdistan. Of course the situation can change again within short time, even though a change is unlikely to happen in the near future.

The targets of the Islamic groups are not just women. Since 1993/1994 communist or leftist bookshops, hairdressers, teachers, coffeeshops have been targeted as well. Most of the blame for these attacks has been laid on one of the Islamic groups, mainly the Islamic Movement in Kurdistan. There are now indications that it is capable of controlling some of these activists. Both the KDP and the PUK warned the head of the Islamic Movement, Mullah Ali Abd al- Aziz Halabchei, in late February / early March 2000 and no more such incidents have occurred in Sulaymaniyah and Arbil.

In some individual cases in the past years people were either shot dead or subject to attempts on their lives and survived. In December 1999 a Kurdish researcher working

at Sulaymaniyah University was shot outside his home, but survived. He said that this attack was probably due to his expressing views on Islam which were not in line with the Islamist groups. Basically he stated that maybe one of them was to blame, yet there was no way to find out. These particular incidents do happen from time to time, but have become rarer as has been mentioned.

To sum up, if one looks at how the situation has developed in Northern Iraq since 1991/1992, one can observe that the number of parties that existed at that time has shifted greatly until today. There was a big variety of parties which existed either alongside the KDP and the PUK for a number of years. Other new ones developed after the Kurdish administration was established. The two dominant ones have always been the same: the KDP and the PUK, each of which has absorbed a number of the smaller parties. These shifts and movements can be traced in case of parties like the Kurdistan Popular Democratic Party or the Kurdistan Socialist Party of Iraq. Looking at the political bureaus of the KDP and the PUK, one will find people who were leaders of these parties and were allured into the KDP which has in fact renamed itself into „United KDP“. The leaders of the smaller parties became quite important members and were given much more facilities, resources and personnel. The PUK followed the same strategies in trying to gain more popular support. These developments of course proved detrimental to the democratic process by reducing not only the number of parties, but also of voices critical of the ruling parties.

In conclusion, instead of asking: What are the groups at risk?, the question should rather be: Who are the individuals at risk? It is difficult to think of one particular group of people that is at risk as a group.

## **II. 3. Persecution of family members**

One of the methods used in government-controlled Iraq is to not only punish the suspected person that is punished, but the whole family of this individual. If the person in question has left the country and an investigation is carried out, his properties will be confiscated and the food ration for the family will be cut as long as the investigation is going on. The measures are up to the Baath Party person in charge in the district. If he is satisfied with the family's loyalty to the regime, he may return the food ration card. In and around Kirkuk, however, these families would definitely asked to leave their houses and the city.

On the one hand, this happened as part of the forcible expulsion of people to Northern Iraq when they lost all their properties. On the other hand, a small number of people, mainly Turkmen, are expelled to the south of Iraq. They are allowed to take some of their belongings with them. In both cases the head of the family is quite often detained until the expulsion process is completed. When they are sure that the family has actually left, this person is released.

In cases where people leave illegally, i.e. using false papers, smuggling themselves across the border or belonging to a category that is not allowed to leave, and do not come back, their families would suffer. At least they would be questioned and harassed. They would be made to phone their relatives abroad, asking them to come back, as otherwise there would be the threat of repercussions against the family in Iraq. If people of those professions prohibited from travelling abroad want to cross borders legally, they need to have somebody vouching for them. This guarantor carries a lot of responsibility as he has to bear the consequences, should the person in question not return to Iraq.

It has to be mentioned in this context that the immediate or close family certainly entails the brothers and sisters, even if they live at separate houses.

In Northern Iraq such systematic persecution of the family does not happen, except in so far as the family is perhaps obliged to move to another area. Apart from this consequence, one's family will not face any other harm.

Being forced to give up one's house and to go somewhere else can already be considered an act of persecution, given the deterioration of the economic conditions. The loss of one's home, social position and connections as well as maybe being forced to continue living in a tent is quite a harsh experience.

## **II. 4. Repatriation / IFA**

Currently, the return of Iraqis to Northern Iraq seems far from being recommendable. Applicants coming from government-controlled areas should not be returned to the north as they typically do not have any personal connections or social network to support them there. Coming from the south, especially if they are Arabs, they will definitely not be welcome in Northern Iraq. There is a historical dislike between Kurds and Arabs, so that sending Arabs - primarily Sunnis from the centre of Iraq - there would be somewhat questionable. Southerners have a totally different culture from the Kurds in the north and do not speak the language. Furthermore, there is already infighting among the Kurds and conflicts with the Turkmen in the north. Arabs, coming there in addition, would not be received peacefully.

Besides, there is also the problem of Iraqi intelligence agents being active in Northern Iraq. Like all other intelligence services, the Iraqi intelligence operates everywhere, inside and outside the country. Since 1996 there have been discussions about operations against opposition parties in the north, but so far no such measures have been taken - with one exception: Mohammed Kawani was assassinated in Sulaymaniyah. Apart from this case, no reports on physical attacks have reached UNHCR. In 1996 several Arbil families were approached to find a way of communication and of building up a public opinion in favour of the government. However, the intelligence apparatus did not succeed in its attempts and just stopped these activities. Still, it is possible that government agents target individuals in Northern Iraq. However, this risk will only apply to high profile persons, like a general manager, a tribal leader, a servant of Saddam Hussein, a commander of Saddam's Fedayeen. Therefore military, high level administration and Baath Party personnel are not considered to be able to find an IFA in Northern Iraq.

The people returning to the government-controlled areas are registered everywhere: with the Alderman, the World Food Programme and the Baath Party of the district. In case of an extended leave, the Baath Party person in charge will identify the individual as missing. Upon return s/he will be investigated, not necessarily leading to persecution. The extent of the investigation depends on the individual's background. If it comes to the notice of the authorities that s/he has sought asylum abroad, the investigation may go further. Since seeking asylum as such is not a crime as defined by the Iraqi Penal Code, it is up to the investigating authority to interpret the situation. Yet, as claiming asylum without accusing the Iraqi government - an offence that is punishable - will hardly be possible, it remains at least uncertain if returning applicants are persecuted. With regard to the amnesty for those who left the country illegally, future reports will have to show to which extent it is being applied.

On the other hand, those applicants coming from Northern Iraq and fearing persecution by the authorities there, are certainly not returnable. The return of rejected ordinary asylum applicants originating from the north, however, does not seem to be a problem.

Yet, in this case they have to return via Syria or Turkey, both of which are rather reluctant to allow this kind of transit.

For someone fearing persecution by the PUK the KDP area cannot be considered safe. Since those coming from Sulaymaniyah have their own lifestyle, the KDP does not necessarily welcome them, if they have a problem with the PUK. Moreover, the KDP area is already crowded with its own people while it still keeps receiving an additional 6-7 families every day.

One has to assess the question of repatriation on a case-by-case basis. It does not seem possible to find a general rule to make it easier for decision-makers to deal with these cases. The answer entirely depends on the individual circumstances: whether they are wanted by the PUK or the KDP or whether they are just ordinary persons. If they did not encounter any particular problems before, it might be possible and acceptable for them to resettle in the other party's area.

The KDP cannot have access to individuals in the PUK area. Yet, it cannot be said that those who fear the KDP can go to Sulaymaniyah and vice versa as assuming an internal flight alternative requires certain criteria. People should under all circumstances be able to establish a new life on the other side.

There have been a number of assassinations in both PUK and KDP areas this year. Although the assassins were not caught, the blame lies with Iraqi government agents in some cases while in others the Kurdish parties blame each other. Each party has announced investigations, the results of which, however, are not known yet. These incidents indicate that the question of safety in the north remains a problematic issue.

In some cases the repatriation/return of rejected asylum seekers to Northern Iraq would in theory be feasible, but fails in practice. It is not possible to return them via Baghdad as they may be exposed to any kind of prosecution when handed over to Iraqi authorities, including the proposal to work for the Iraqi government in Northern Iraq. The passage through Turkey, on the other hand, is also very difficult. The Turkish government is not keen on having another 100,000 Iraqis from all over Europe sent back to Turkey and from there to Northern Iraq, if it is not facilitated properly.

The other way has been through Jordan. Some rejected asylum applicants have come from Europe to Amman Airport from where they were directly brought to the Iraqi border by land. In most cases the UNHCR Branch Office in Amman does not even know about it until it is over. As the operations happened so quickly it is not known whether these people had gone through a full asylum application procedure in the country they came from or whether they were just caught in transit and put on the first plane back.

## **II. 5. Iraqi refugees abroad**

The bordering countries where people initially go are Jordan, Syria, Iran and Turkey. Iran has traditionally taken vast numbers of Iraqi refugees. According to HRW's knowledge, there is very little resettlement from Iran itself. Many refugees in Jordan and Syria are either waiting to be recognized as refugees or have already been recognized and are waiting to be resettled in one of the European countries.

The situation in these two countries is very different both in terms of the government policy towards Iraq and Iraqi refugees and of the procedures followed. Some of those who are turned down by UNHCR at this level end up coming to Europe illegally and trying to re-apply there or to regulate their standing in that way. In Jordan, which is the



main point of entry, there are an estimated 250,000 Iraqis, yet this number is probably an under-estimation. The vast majority are illegal residents.

In 2000 HRW interviewed several hundred Iraqi refugees in Jordan and Syria, not for asylum or resettlement reasons, but for research purposes. The big majority of them had already been denied asylum and were not recognized as refugees by the UNHCR Branch Offices in those countries. Either they were in the process of appealing or were trying to think of some other legal or illegal way to resolve their situation.

In Jordan any reflection of the government's improved relations with Iraq has put a number of restrictions on the presence of Iraqi refugees. Nonetheless, someone who crosses the border today gets a six months permit of residence. It used to be easily possible to renew this permit by going to a neighbouring country for two days and then coming back, being granted another six months stay. This possibility no longer exists. If one leaves the country now after the expiry of the permit, one has to stay outside the country for a minimum of three weeks. Nobody has the money to do that and moreover it is very difficult to get permission to enter a neighbouring country for Iraqis. This is why they end up staying in Jordan illegally. The waiting time for a first interview with UNHCR in Jordan has been about six months. So even if one registers with UNHCR on the first day after one's arrival in Jordan, by the day of the first interview one is likely to be already an illegal resident. UNHCR is of course aware of this problem and has been trying to reduce this waiting period. While they recently succeeded to do so in a number of cases, it is still a general problem.

Although Jordan has signed a memorandum of understanding with the UNHCR as a kind of bilateral agreement in order to give better protection to asylum seekers, it is not applied in reality. The risk of refoulement, of being pushed back within the borders of Iraq, is very high in Jordan. The HRW documentation includes some cases of people who were still awaiting the decision of the UNHCR were picked up by the Jordanian police and sent back to Iraq. This means that the Jordanian government is not applying the memorandum of understanding in the way it should. The provisions of this memorandum are not ideal, but they are better than nothing. In the present situation the ordinary policeman or member of the security forces who sees a group of Iraqis in the street will not be prevented from stopping them and taking them to a local police station, even if they are able to show a paper from UNHCR saying that their case is still being considered or under appeal. If nobody knows about them, some of these individuals are pushed back across the Iraqi border. In those cases which are documented UNHCR takes of course action and gets people out of prison. However, there are many others not known of and who are then deported. Their fate remains unknown. HRW interviewed a few people who were pushed back into Iraq, but then managed to return to Jordan some time later. It cannot be said that all of them suffered. Nothing happened to some of them, they just came back to Jordan. However, some were held and tortured. Some were asked about their activities in Jordan.

Whether the fact of asking for asylum in Jordan or elsewhere will put an Iraqi at risk, should s/he be returned to his country, is also a big question. Concluding from logic and from what one knows about Iraq, the answer would be yes. Nonetheless, the necessary evidence is lacking at the present time. HRW, however, collected testimonies from individuals who claim that their families have been harassed, that they have been called for interrogations, that they have sometimes been arrested for short periods because their relatives have asked for political asylum. Finding out who has applied for asylum is not very difficult to achieve. Iraqi agents have always been operating quite freely in Jordan and now this activity has increased. Due to this fact some refugees do not feel safe at all in Jordan, and their fear seems very justified in some cases. In summer 1999 the Jordanian authorities carried out a kind of round-up

of illegal workers in the country. These persons were of course not only Iraqis, but people of a number of nationalities. Thousands were returned to their countries of origin, including many Iraqis. This measure also affected people who had registered with UNHCR.

HRW cannot report about cases of recognized refugees being deported. Still, others who were awaiting a decision were pushed back across the border. The present policy of the Jordanian government is not good news for Iraqi refugees. At the beginning of November the Jordanian Prime Minister visited Iraq and the situation of the Iraqis in Jordan was most likely on the agenda of their talks. Their situation tends to deteriorate considerably. Some of the persons denied refugee status tried to leave Jordan and to go illegally to either Syria or Lebanon where they re-applied at Branch Offices there or from where they tried to find an illegal way to get to Europe.

The situation of Iraqi refugees in Syria is quite different given the strained nature of Iraqi-Syrian relations. Like Iran, Syria has let in a large number of refugees, not only from Iraq, but many Middle Eastern countries. They are not given many rights, but never face the risk of refoulement, at least not yet. While they are allowed to stay, however, they do not have many prospects as they cannot work. They do get some minimum health care as opposed to Jordan where they get nothing. Still, their situation is not resolved and many of them have been stuck there for years, without any possibility to move on. Besides, the Syrian government has the policy of allowing the Iraqi opposition to operate in Syria. Most of the existing opposition groups have some sort of representation in Syria, whether it is a big office with many activities or just one individual. As a result there is a sense of community, a feeling of not being on one's own, which helps a refugee upon his arrival in the country. There is a kind of support system.

The sort of refugees coming to Syria are the ones fleeing from government-controlled areas to the north from where they arrange to cross into Qamishli on the Syrian side of the border. They usually take this route rather than going to Jordan and crossing into Syria from there because Syria is allowing only very few Iraqi refugees to come into the country via Jordan. Getting into Syria is normally quite a long process in terms of the required paperwork. So usually the kinds of people taking the described route via the north are those who have the support of one of the Iraqi opposition parties which have presence in Syria. They can do the paperwork for the refugees who are either affiliated with one of these groups or are able to get their help.

On the other hand, those going to Jordan could belong to this group of people, too, but they are also individuals without any particular links to such a group. They would be journalists, artists, former soldiers, etc. In Jordan there is no comparable support system since Jordan presently does not allow Iraqi political parties to operate within the country. The only exception is the Iraqi National Accord which has a small office in Jordan. Clearly, the situation in the two neighbouring countries differs vastly.

At the moment the Iraqi government makes an intensive effort not only to locate the refugees abroad and monitor their activities, but also to try to cut off any means they have to actually make it outside Iraq.

There are three countries in the Middle East which over the last few years have allowed Iraqis to enter without any visa or residence requirements and to work to varying degrees: Jordan, Libya and Yemen. These countries have large numbers of Iraqi refugees. Yemen has been most permissive in that Iraqis have been allowed to enter, to reside and to work, if they have the required qualifications. Libya has also permitted a large number of refugees to work, unlike Jordan where it is only possible to

get a job through various contacts. However, this situation is changing now as the Iraqi government is carrying out a lot of efforts to put pressure on these governments to issue more restrictive laws governing the presence of Iraqis there.

Yemen is a very poor country with a low number of professional cadres to fill the posts in education, engineering, medicine and other professions. Iraq has many of these cadres already trained and qualified a lot of whom have been employed in Yemen. In the teaching profession e.g. there are at least 3,000 Iraqi primary and secondary teachers as well as 500-600 persons working at university level. All these people had contracts to work in Yemen. At the end of the academic year 1999/2000 there was a mass termination of contracts of Iraqis working in Yemen, following high level visits by Taha Yassin Ramadan, the Vice President of Iraq, and other high profile individuals to put pressure on the Yemeni authorities to terminate the contracts. These Iraqis, who had not applied for asylum before, now see their only option in approaching UNHCR and applying for asylum. The result is an increase in the amount of cases the Branch Office receives, but also an aggravation of the problem.

The Yemeni authorities have now instituted new regulations whereby in order to be a teacher - either at university or school level - one's qualifications have to be approved by the Iraqi embassy which is only possible for someone who has not yet had any problems with the authorities. Yet, if one is in conflict with them, this means the end of one's career as a teacher in Yemen at that moment in time. There are not many other options open to such a person. Another regulation introduced recently is that at the end of the academic year one has to go back to Baghdad where one's qualifications have to be reconfirmed by the Ministry of Higher Education. The possibility to go to Jordan and spend the holidays there immediately after the end of the academic year has thus been abolished. The same events - the termination of contracts of university staff - have happened in Jordan and Libya. While these teachers are of course not told officially that they are no longer employed because of their being Iraqi, a deterioration of the problem can be expected as Iraq's relations with its neighbours improve, as sanctions gradually crumble, and as the economic benefits of good relations with Iraq are made more apparent to these countries. The Iraqis who are there at the moment will be the first casualties of this development.